

§1018.92

more than 10 years at the time the offset is made;

(2) Cannot be currently collected pursuant to the salary offset provisions of 5 U.S.C. 5514(a)(1);

(3) Is ineligible for administrative offset under 31 U.S.C. 3716(a) by reason of 31 U.S.C. 3716(c)(2) or cannot be collected by administrative offset under 31 U.S.C. 3716(a) by the Board against amounts payable to or on behalf of the debtor by or on behalf of the Board.

(4) With respect to which the Board has given the taxpayer at least 60 days from the date of notification to present evidence that all or part of the debt is not past-due or legally enforceable, has considered evidence presented by such taxpayer, and has determined that an amount of such debt is past-due and legally enforceable.

(5) Has been disclosed by the Board to a consumer reporting agency as authorized by 31 U.S.C. 3711(f), unless a consumer reporting agency would be prohibited from using such information by 15 U.S.C. 1681c, or unless the amount of the debt does not exceed \$100.00;

(6) With respect to which the Board has notified or has made a reasonable attempt to notify the taxpayer that the debt is past-due and, unless repaid within 60 days thereafter, the debt will be referred to the IRS for offset against any overpayment of tax;

(7) Is at least \$25.00;

(8) All other requirements of 31 U.S.C. 3720A and the Department of the Treasury regulations codified at 26 CFR 301.6402-6T relating to the eligibility of a debt for tax return offset have been satisfied.

§1018.92 Administrative charges.

In accordance with 49 CFR 1018.30, all administrative charges incurred in connection with the referral of the debts to the IRS shall be assessed on the debt and thus increase the amount of the offset.

§1018.93 Notice requirement before offset.

A request for reduction of an IRS tax refund will be made only after the Board makes a determination that an amount is owed and past-due and provides the debtor with 60 days written notice. The Board's notice of intention

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to collect by IRS tax refund offset (Notice of intent) will state:

(a) The amount of the debt;

(b) That unless the debt is repaid within 60 days from the date of the Board's Notice of Intent, the Board intends to collect the debt by requesting that the IRS reduce any amount payable to the debtor as Federal Income tax refunds an amount equal to amount of the debt including all accumulated interest and other charges;

(c) That the debtor has the right to present evidence that all or part of the debt is not past-due or legally enforceable; and

(d) A mailing address for forwarding any written correspondence and a contact name and phone number for any questions.

§1018.94 Review within the Board.

(a) *Notification by Debtor.* A debtor who receives a Notice of Intent has the right to present evidence that all or part of the debt is not past-due or not legally enforceable. To exercise this right, the debtor must:

(1) Send a written request for a review of the evidence to the address provided in the notice.

(2) State in the request the amount disputed and the reasons why the debtor believes that the debt is not past-due or is not legally enforceable.

(3) Include in the request any documents which the debtor wishes to be considered or state that additional information will be submitted within the 60-day period.

(b) *Submission of evidence.* The debtor may submit evidence showing that all or part of the debt is not past-due or not legally enforceable along with the notification required by paragraph (a) of this section. Failure to submit the notification and evidence within 60 days will result in an automatic referral of the debt to the IRS without further action by the Board.

(c) *Review of the evidence.* The Board will consider all available evidence related to the debt. Within 30 days, if feasible, the Board will notify the debtor whether the Board has sustained, amended, or canceled its determination that the debt is past-due and legally enforceable.